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Attorneys for J. R. Simplot Company

**BEFORE THE DIRECTOR  
 OF THE DEPARTMENT OF WATER RESOURCES  
 OF THE STATE OF IDAHO**

IN THE MATTER OF DISTRIBUTION OF WATER )  
 TO VARIOUS WATER RIGHTS HELD BY OR FOR )  
 THE BENEFIT OF A&B IRRIGATION DISTRICT, )  
 AMERICAN FALLS RESERVOIR DISTRICT #2, )  
 BURLEY IRRIGATION DISTRICT, )  
 MILNER IRRIGATION DISTRICT, )  
 MINIDOKA IRRIGATION DISTRICT, )  
 NORTH SIDE CANAL COMPANY, AND )  
 TWIN FALLS CANAL COMPANY )

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**PETITION FOR  
 RECONSIDERATION OR  
 CLARIFICATION BY  
 J. R. SIMPLOT COMPANY**

The J. R. Simplot Company ("Simplot") respectfully requests the Idaho Department of Water Resources ("IDWR" or "Department") to reconsider or to clarify paragraph #7 of the Department's Order issued by its Director, Karl J. Dreher, ("Director") on May 2, 2005 (the "May 2 Order").

This Petition is brought pursuant to Rule 740(02)(a) of the Rules of Procedure of the Department of Water Resources and the terms of the May 2 Order. Simplot holds water rights that are directly affected by the May 2 Order and by the Director's Order Regarding Simplot Water Replacement Request dated May 6, 2005 (the "May 6 Order"). Although Simplot believes the additional information it will supply to conform to the requirements of the May 6, Order may resolve the issues raised herein, this Petition is being filed to preserve Simplot's procedural rights to have paragraph #7 of the May 2 Order reconsidered or clarified, as appropriate.

Paragraph #7 of the Amended Order dated May 2, 2005 provides as follows:

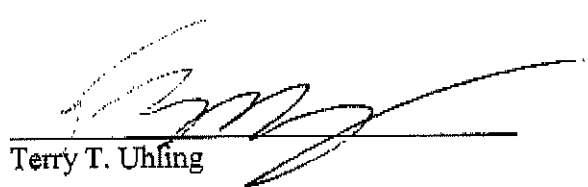
"7. The amount of replacement water required, both for 2005 and in future years, can be reduced by foregoing (curtailing) consumptive uses authorized under the affected water rights or other water rights so long as the full beneficial use was made under the foregone rights in the prior year."

Simplot respectfully submits to the Director that the standard that should apply for a water right used for replacement water should be whether the right is valid and that it is not subject to abandonment or forfeiture in accordance with applicable Idaho Law.

Simplot requests, if the Director deems it necessary after reviewing Simplot's submittal required under the May 6 Order, that the Director reconsider or clarify Paragraph 7 of the May 2 Order to allow replacement water to be provided by foregoing (curtailing) consumptive uses authorized under the affected water rights or other water rights so long as such replacement

water rights are determined to be valid and have been beneficially used in accordance with Idaho Law.

Respectfully submitted this 16<sup>th</sup> day of May 2005.



Terry T. Uhling



Gray Young

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of May 2005, I caused to be served copies of the foregoing PETITION FOR RECONSIDERATION OR CLARIFICATION BY THE J.R SIMPLOT COMPANY upon the following, by U. S. Mail, postage prepaid:

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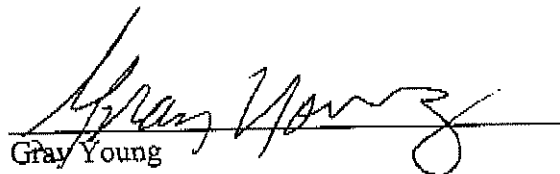
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